IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4571 of 2006
With
SPECIAL CIVIL APPLICATION No. 4572 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DWARKA TALUKA PANCHAYAT
Versus
TATA CHEMICALS LTD AND ANOTHER

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Appearance :
MR PV HATHI for Petitioner.
UNSERVED-WANT OF TIME for Respondent No.1.
MR SHIRISH JOSHI for Respondent No.1.
MR LB DABHI, AGP for Respondent No.2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 12/04/2007

COMMON ORAL JUDGMENT

1) Since in these two petitions identical question of law and facts

arise, they have been heard together and are disposed of by this common order.

2) Parties in these petitions are common. Petitioner – Taluka Panchayat is challenging a common order dated 14th February 2006, passed by the Principal Senior Civil Judge, Jamkhambhaliya in Regular Civil Suit No.4/2000 below Exh.78 and 84.

3) The respondents have preferred the above mentioned Civil Suit resisting certain recoveries sought to be made by the petitioner. At interim stage the issues initially reached this Court and ultimately before the Apex Court. The Apex Court by an order dated 22nd March, 2004 by way of an interim relief has directed the opponents herein to pay the dues fallen in arrears with effect from 1st January, 2000 within a period of six weeks from the date of the order and further directed them to continue to pay the arrears falling due year after year within the stipulated time. It is also directed that for the arrears as per the demand contained in the notice dated 18th November, 1999 they shall furnish bank guarantee within six weeks. Ultimately, the appeal of the original plaintiffs came to be disposed of by an order dated 5th October, 2005 requiring the trial Court to dispose of the suit expeditiously. Thereafter, the respondents sought amendments in the civil suit by filing applications Exh.78 and 84. Through such amendments, the plaintiffs desired to add certain grounds and certain prayers in the pending suit. These applications came to be allowed by impugned order passed by the learned trial Judge.

4) On behalf of the petitioner – panchayat, it was contended before me that by way of amendments the plaintiffs are seeking to change the nature of the suit, which is not permissible. It was contended that the

amendments if granted would run counter to the order passed by the Apex Court. It is also contended that the amendments would prejudice the petitioner.

5) Having heard the learned advocates for the parties, I am unable to uphold the contention of the petitioner. Having perused the amendments sought, I find that the same are occasioned on account of the plaintiffs being directed to deposit with petitioner-Panchayat periodically the amounts demanded year after year. As per the plaintiffs, if they succeed in the suit ultimately, they would be entitled to seek recovery of such deposits. Since the amendments occasioned on account of certain developments, which took place during the pendency of the suit, I do not find that the trial Court committed any legal error in granting such applications. Whether in face of the order passed by the Apex Court, the prayer sought to be added by the plaintiffs through these amendments could be granted or not is not a question that needs to be decided by this Court at this stage. Suffice it to say that the amendments do not change the nature of the pending suit nor in my opinion, do they prejudice the petitioner.

6) In the result, the petitions are devoid of merits and are hereby dismissed. Rule is discharged. Interim relief, if any, stands vacated. No costs.

(Akil Kureshi, J.)

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